

EPCRA SECTION 313 REPORTING EXEMPTIONS

SECTION 313 EXEMPTIONS

- Designed to reduce the burden of reporting associated with small or ancillary chemical uses
- If an exemption applies, then the amount of a Section 313 chemical subject to the exemption does not have to be included in:
 - Threshold determinations
 - Release and other waste management reporting
 - Supplier notification
- Recognize that exemptions only apply in certain limited circumstances

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SECTION 313 EXEMPTIONS

- Types of exemptions (§372.38)
 - *De minimis*
 - Articles
 - Laboratory activities
 - Otherwise use exemptions
 - » Motor vehicle maintenance
 - » Routine janitorial or facility grounds maintenance
 - » Structural components
 - » Personal use
 - » Intake water and air
 - Mining (extraction activities and overburden)

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DE MINIMIS EXEMPTION

- The quantity of a non-PBT Section 313 chemical in a mixture or other trade name product is eligible for the exemption if the chemical is:
 - Any non-PBT Section 313 chemicals present at a concentration of less than 1% by weight (§372.38(a))
 - or
 - An OSHA-defined non-PBT carcinogen present at a concentration of less than 0.1% by weight

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DE MINIMIS EXEMPTION How It Works

- *De minimis* exemption can apply to non-PBT chemicals:
 - In mixtures or other trade name products processed or otherwise used
 - Only two manufacturing activities:
 - » Coincidentally manufactured as impurities that remain in products
 - » Imported in mixtures or other trade name products

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DE MINIMIS EXEMPTION How It Works

- *De minimis* exemption does not apply to:
 - Manufacturing chemicals (in most cases)
 - » Manufacturing chemicals as by-products
 - » Coincidentally manufacturing chemicals
 - As by-products of waste treatment or fuel combustion
 - Section 313 chemicals listed as persistent, bioaccumulative, and toxic (PBT) (except for supplier notification)

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DE MINIMIS EXEMPTION How It Works

- *De minimis* exemption does not apply to:
 - Wastes and waste streams, from non-exempt sources, that are processed or otherwise used
 - » Wastes received from off-site for purposes of on-site incineration
 - Releases and other waste management activities from mixtures or other trade name products that are not associated with a processing or otherwise use activity
 - » Material storage not associated with processing or otherwise use activities

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DE MINIMIS EXEMPTION How It Works

- *De minimis* concentration for toluene is 1.0% (not an OSHA carcinogen)

Cleaning Mixture
0.5% Toluene
(exempt)

Raw Material Mixture
90% Toluene
(not exempt)

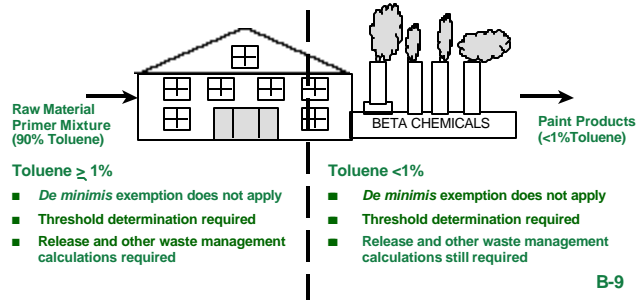


- Toluene in cleaning mixture is below *de minimis* concentration and is eligible for the exemption

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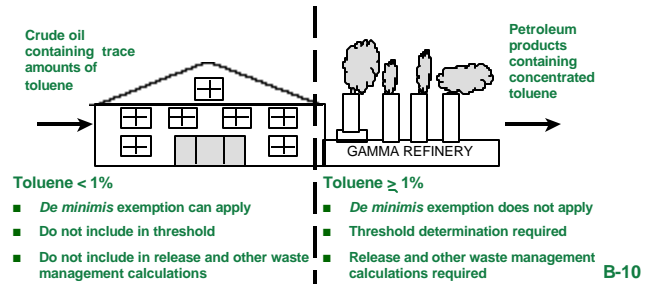
DE MINIMIS EXEMPTION How It Works

- Processing a non-PBT Section 313 chemical in a mixture to below the *de minimis* concentration does not exempt the chemical from threshold determinations and release and other waste management calculations



DE MINIMIS EXEMPTION How It Works

- Processing a non-PBT Section 313 chemical in a mixture to above the *de minimis* concentration triggers threshold determinations and release and other waste management calculation requirements



ARTICLES EXEMPTION

- “Article” is defined (§372.38(b)) as an item that is already manufactured and:
 - Is formed into a specific shape or design during manufacture; and
 - Has end-use functions dependent in whole or in part on its shape or design during end-use; and
 - Does not release a Section 313 chemical under normal processing or otherwise use conditions at a facility
- The articles exemption does not apply to the manufacture of articles

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ARTICLES EXEMPTION How It Works

- Releases of a Section 313 chemical from an article may negate the exemption. To maintain the article status, total releases from all like items must be:
 - In a recognizable form; or
 - Recycled, directly reused; or
 - 0.5 pounds or less (may be rounded down to zero)
- If more than 0.5 pounds of a Section 313 chemical are released from all like items in a non-recognizable form and are not recycled or directly reused, none of the items meet the articles exemption

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ARTICLES EXEMPTION

Examples

- Wire is cut to specified lengths. Wastes include off-spec cuts and dust
 - Generation of off-spec cuts that are recognizable as articles will not, by itself, negate the article status
 - Dust and off-spec cuts not recognizable as articles, with greater than 0.5 pounds of a Section 313 chemical released, and not recycled or directly reused, negate the article status
- Fluorescent light bulbs are installed containing mercury. The used bulbs are crushed in an enclosed container prior to recycling
 - Crushing bulbs prior to disposal is not considered release during use; exemption is not negated

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ARTICLES EXEMPTION

Examples

- Pipe is cut to specified lengths. Wastes include off-spec cuts and dust
 - Facility estimates that from all uses of the same type of pipe over the reporting year, a total of 2 pounds of chromium releases and 0.3 pounds of nickel releases occur
 - Because total chromium releases are greater than 0.5 pounds over the reporting year, the articles exemption is negated for all uses of the pipe including both the chromium and nickel in the pipe (even though total nickel releases were less than 0.5 pounds)

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LABORATORY ACTIVITIES EXEMPTION

- Section 313 chemicals manufactured, processed, or otherwise used in certain laboratory activities, performed under the supervision of a technically qualified individual, may be eligible for the exemption (§372.38(d))
- Activity must occur in a laboratory to be exempt
- Laboratories, themselves, are not exempt

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LABORATORY ACTIVITIES EXEMPTION

- Definition of technically qualified individual (§720.3(ee))
 - Capable of understanding the health and environmental risks associated with the chemical substance which is used under his or her supervision because of education, training, or experience, or a combination of these factors;
 - Responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research to minimize such risks; and
 - Responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting a research and development activity.

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LABORATORY ACTIVITIES EXEMPTION

How It Works

- Section 313 chemicals manufactured, processed, or otherwise used in these laboratory activities are eligible for the exemption
 - Sampling and analysis
 - Quality assurance
 - Quality control

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LABORATORY ACTIVITIES EXEMPTION

How It Works

- Section 313 chemicals manufactured, processed, or otherwise used in these laboratory activities are NOT exempt
 - Any activities conducted outside laboratories
 - Specialty chemical production
 - Pilot-scale plant operations
 - Support services
 - Photo processing
 - Equipment maintenance/cleaning

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MOTOR VEHICLES EXEMPTION

- Section 313 chemicals otherwise used to maintain motor vehicles operated by the facility are eligible for the exemption (§372.38(c)(4))
- Examples of motor vehicles eligible for the exemption include cars, trucks, airplanes, and forklifts
- Examples of exempt motor vehicle maintenance:
 - Body repairs
 - Parts washing and plating
 - Fueling and adding other fluids (e.g., ethylene glycol)

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ROUTINE JANITORIAL OR FACILITY GROUNDS MAINTENANCE EXEMPTION

- Section 313 chemicals contained in products otherwise used for non-process related routine janitorial or facility grounds maintenance are eligible for the exemption (§372.38(c)(2))
 - Phenol in bathroom disinfectants
 - Pesticides in lawn care products
- Section 313 chemicals otherwise used in process-related activities are not exempt
 - Facility equipment maintenance
 - Cleaning or maintenance activities that are integral to the production process of the facility

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STRUCTURAL COMPONENT EXEMPTION

- The otherwise use of Section 313 chemicals, that are part of structural components of a facility, are eligible for the exemption provided the structure is not process related (§372.38(c)(1))
 - Copper in pipe used in construction of employees' bathroom facilities
 - Metals, pigments, and solvents in paint applied to facility structure

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OTHER EPCRA SECTION 313 EXEMPTIONS

- Section 313 chemicals contained in non-process related items for employee personal use (§372.38(c)(3))
 - HCFC-22 in air conditioners used solely for employee comfort
 - Chlorine used to treat on-site potable water
 - Phenol in a facility medical dispensary
- Section 313 chemicals found in intake water (e.g., process water and non-contact cooling water) and air (e.g., used as compressed air) (§372.38(c)(5))

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SIC CODE-SPECIFIC EXEMPTIONS

- SIC Code 12: Coal mining extraction activities are exempt from threshold determinations and release reporting (§372.38(g))
 - Coal extraction: the physical removal or exposure of ore, coal, minerals, waste rock, or overburden prior to beneficiation, and encompasses all extraction-related activities prior to beneficiation (§372.3)
- SIC Code 10: Chemicals in metal mining overburden that are processed or otherwise used are specifically exempt from TRI reporting (§372.38(h))
 - Overburden: unconsolidated material that overlies a deposit of useful materials or ores (§372.3)

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